In the High Court of Punjab and Haryana at Chandigarh.

Regular Second Appeal No.2712 of 2006.

Date of decision:22.9.2006.

Gurdial Singh.

...Appellant.

Versus

Sarban Singh.

...Respondent.

...

Coram: Hon'ble Mr. Justice S. N. Aggarwal.

...

Present: Mr.S.K.Chawla Advocate for the appellant.

...

Judgment.

S. N. Aggarwal, J.

Sarban Singh respondent filed a suit against the appellant for the recovery of Rs.36,500/-.Out of this amount, Rs.23,500/- were the principal amount claimed on the basis of pronote and receipt dated 14.7.1997 and Rs.13,000/- were the interest amount.

The suit was contested by the appellant on numerous grounds.

Issues were framed.

The parties led the evidence.

The learned trial Court vide judgment and decree dated

20.3.2002 decreed the suit for the recovery of Rs.23,500/- with interest at the rate of 12% per annum from the date of execution of pronote and receipt till the date of decree and from that date onwards at the rate of 6% per annum till the date of payment.

Gurdial Singh appellant filed the appeal. The learned lower Appellate Court up-held the finding of fact recorded by the trial Court and dismissed the appeal vide judgment and decree dated 28.1.2005.

Hence the present appeal.

The submission of learned counsel for the appellant was that as per provisions of Section 269 of the Income Tax Act, the amount could have been paid by the respondent to the appellant only by way of Bank draft/cheque and not otherwise. Therefore, the payment of the amount by the respondent to the appellant is not proved.

This submission has been considered. It has no merits. If the respondent has committed any violation of the Income Tax Act, he himself would be answerable to the Income Tax Authorities but it has been specifically proved by the respondent by leading cogent evidence that the appellant has executed the pronote and the receipt dated 14.7.1997 in his favour. The presumption of truth is attached to these documents. Otherwise also, the respondent has led positive evidence to prove that the appellant had taken Rs.23,500/- from him in the presence of the witnesses. Both the Courts below have recorded concurrent finding of fact that the execution of the pronote and the receipt by the appellant in favour of the respondent is proved and it is also proved

that the said pronote and the receipt were for consideration.

Therefore, the concurrent findings of fact recorded by the Courts below are up-held. No substantial question of law arises in this appeal.

No merit.

Dismissed.

September 22,2006. (S. N. Aggarwal)
Jaggi Judge